

LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP  
Wendy B. Shepps (WS-1207)  
*Attorneys for Defendant Cohen & Slamowitz, LLP*  
39 Broadway, 34th Floor  
New York, New York 10006  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CELLY CEASAR, :  
Plaintiff, :  
: ANSWER  
- against - :  
COHEN & SLAMOWITZ, LLP, :  
Defendant. :  
-----X

Defendant, COHEN & SLAMOWITZ, LLP (hereinafter “Defendant or “COHEN & SLAMOWITZ”), by its attorneys, LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP hereby responds, upon information and belief, to the Plaintiff’s Complaint, as follows:

**FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “1” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**PARTIES**

**SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “2” of Plaintiff’s Complaint.

**THIRD:** Admits the truth of each and every allegation contained within paragraph “3” of Plaintiff’s Complaint.

**FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “4” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

#### **JURISDICTION AND VENUE**

**FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “5” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “6” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

#### **FACTUAL ALLEGATIONS**

**SEVENTH:** Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in response to paragraphs “1” through “7” of the Plaintiff’s Complaint as if the same were repeated verbatim at length herein.

**EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “8” of Plaintiff’s Complaint.

**NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “9” of Plaintiff’s Complaint.

**TENTH:** Denies the truth of each and every allegation contained in paragraph “10” of Plaintiff’s Complaint.

**ELEVENTH:** Denies the truth of each and every allegation contained within paragraph “11” of Plaintiff’s Complaint.

**THIRTEENTH:** Denies the truth of each and every allegation contained in paragraph “13” of Plaintiff’s Complaint.

#### **FIRST CAUSE OF ACTION**

**FOURTEENTH:** Defendant repeats, reiterates and realleges each and every denial and denial asserted upon information and belief in response to paragraphs “1” through “14” of the Plaintiff’s Complaint as if the same were repeated verbatim at length herein.

**FIFTEENTH:** Denies the truth of each and every allegation contained in paragraph “15” of Plaintiff’s Complaint.

**SIXTEENTH:** Denies the truth of each and every allegation contained in paragraph “16” of Plaintiff’s Complaint.

**DEMAND FOR TRIAL BY JURY**

**SEVENTEENTH:** Denies the truth of each and every allegation contained in paragraph “17” of Plaintiff’s Complaint.

**AS AND FOR ANSWERING DEFENDANT’S  
FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint fails to state a valid cause of action upon which relief may be granted.

**AS AND FOR ANSWERING DEFENDANT’S  
SECOND AFFIRMATIVE DEFENSE**

The plaintiff’s Complaint is not supported by documentary evidence.

**AS AND FOR ANSWERING DEFENDANT’S  
THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, the causes of action asserted in the Plaintiff’s Complaint against the Answering Defendant are barred in whole or in part by the doctrine of estoppel.

**AS AND FOR ANSWERING DEFENDANT’S  
FOURTH AFFIRMATIVE DEFENSE**

If plaintiff has incurred any damages herein, which claim is expressly denied, such damages are the result of his own culpable conduct.

**AS AND FOR ANSWERING DEFENDANT’S  
FIFTH AFFIRMATIVE DEFENSE**

Defendant did not violate, in whole or in part, any provision of the FDCPA.

**AS AND FOR ANSWERING DEFENDANT'S  
SIXTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was not intentional and resulted from a bona fide error notwithstanding reasonable procedures adopted to avoid any such error.

**AS AND FOR ANSWERING DEFENDANT'S  
SEVENTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was the result of acts of non-agents, or agents acting outside the scope of their authority.

**AS AND FOR ANSWERING DEFENDANT'S  
EIGHTH AFFIRMATIVE DEFENSE**

The instant action is barred by the expiration of the applicable statute of limitations.

**AS AND FOR ANSWERING DEFENDANT'S  
NINTH AFFIRMATIVE DEFENSE**

Plaintiff is precluded by the doctrine of waiver and estoppel.

**AS AND FOR ANSWERING DEFENDANT'S  
TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate his damages.

**AS AND FOR A  
FIRST COUNTERCLAIM AGAINST PLAINTIFF**

1. Defendant submits that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.
2. By virtue of the foregoing, pursuant to 15 U.S.C. §1692k(a)(3), Defendant is entitled to an award of reasonable attorney's fees and costs incurred herein.

**WHEREFORE**, Answering Defendant COHEN & SLAMOWITZ, LLP, respectfully requests that this Court enter judgment herein dismissing Plaintiff's claims against them in their entirety, and granting Defendant judgment on its counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: New York, New York  
October 4, 2010

Respectfully Yours,

**LITTLETON, JOYCE, UGHETTA,  
PARK & KELLY LLP**



By: \_\_\_\_\_

Wendy B. Shepps (WS1207)  
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File No.: 07883.00032

TO: M. Harvey Rephen & Associates, P.C.  
Attorneys for Plaintiff  
*Celly Ceasar*  
708 Third Avenue, 6<sup>th</sup> Floor  
New York, New York 10017

**CERTIFICATE OF SERVICE**

I, Wendy B. Shepps, hereby certify that on October 4, 2010, I electronically filed the foregoing Answer with the Clerk of the District Court using its CM/ECF system which would then electronically notify M. Harvey Rephen, Esq., counsel for the Plaintiff.



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Wendy B. Shepps (WS 1207)